THE TREATMENT OF CRIME

C.O.P.E.C. COMMISSION REPORT

VOL. VI.

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C.O.P.E.C. COMMISSION REPORTS

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THE TREATMENT OF CRIME

Being the Report presented to the Conference on Christian Politics, Economics and Citizenship at Birmingham, April 5–12, 1924

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BASIS

THE basis of this Conference is the conviction that the Christian faith, rightly interpreted and consistently followed, gives the vision and the power essential for solving the problems of to-day, that the social ethics of Christianity have been greatly neglected by Christians with disastrous consequences to the individual and to society, and that it is of the first importance that these should be given a clearer and more persistent emphasis. In the teaching and work of Jesus Christ there are certain fundamental principles—such as the universal Fatherhood of God with its corollary that mankind is God's family, and the law "that whoso loseth his life, findeth it"—which, if accepted, not only condemn much in the present organisation of society but show the way of regeneration. Christianity has proved itself to possess also a motive power for the transformation of the individual, without which no change of policy or method can succeed. In the light of its principles the constitution of society, the conduct of industry, the upbringing of children, national and international politics, the personal relations of men and women, in fact all human relationships, must be tested. It is hoped that through this Conference the Church may win a fuller understanding of its Gospel, and hearing a clear call to practical action may find courage to obey.

GENERAL PREFACE

The present volume forms one of the series of Reports drawn up for submission to the Conference on Christian Politics, Economics and Citizenship, held in Birmingham in April 1924.

In recent years Christians of all denominations have recognised with increasing conviction that the commission to "go and teach all nations" involved a double task. Alongside of the work of individual conversion and simultaneously with it an effort must be made to Christianise the corporate life of mankind in all its activities. Recent developments since the industrial revolution, the vast increase of population, the growth of cities, the creation of mass production, the specialisation of effort, and the consequent interdependence of individuals upon each other, have given new significance to the truth that we are members one of another. The existence of a system and of methods unsatisfying, if not antagonistic to Christian life, constitutes a challenge to the Church. The work of a number of pioneers during the past century has prepared the way for the attempt to examine and test our social life in the light of the principles revealed in Jesus Christ, and to visualise the requirements of a Christian civilisation. Hitherto such attempts have generally been confined to one or two aspects of citizenship; and great as has been their value, they have plainly shown the defects of

sectional study. We cannot Christianise life in compartments: to reform industry involves the reform of education, of the home life, of politics and of international affairs. What is needed is not a number of isolated and often inconsistent plans appropriate only to a single department of human activity, but an ideal of corporate life constructed on consistent principles and capable of being applied to and fulfilled in every sphere.

The present series of Reports is a first step in this direction. Each has been drawn up by a Commission representative of the various denominations of British Christians, and containing not only thinkers and students, but men and women of large and differing practical experience. Our endeavour has been both to secure the characteristic contributions of each Christian communion so as to gain a vision of the Kingdom of God worthy of our common faith, and also to study the application of the gospel to actual existing conditions—to keep our principles broad and clear and to avoid the danger of Utopianism. We should be the last to claim any large or general measure of success. The task is full of difficulty: often the difficulties have seemed insurmountable.

But as it has proceeded we have discovered an unexpected agreement, and a sense of fellowship so strong as to make fundamental divergences, where they appeared, matters not for dispute but for frank and sympathetic discussion. Our Reports will not be in any sense a final solution of the problems with which they are concerned. They represent, we believe, an honest effort to see our corporate life

steadily and whole from the standpoint of Christianity; and as such may help to bring to many a clearer and more consistent understanding of that Kingdom for which the Church longs and labours and prays.

However inadequate our Reports may appear—and in view of the magnitude of the issues under discussion and the infinite grandeur of the Christian gospel inadequacy is inevitable—we cannot be too thankful for the experience of united inquiry and study and fellowship of which they are the fruit.

It should be understood that these Reports are printed as the Reports of the Commissions only, and any resolutions adopted by the Conference on the basis of these Reports will be found in *The Proceedings of C.O.P.E.C.*, which also contains a General Index to the series of Reports.

LIST OF COMMISSION MEMBERS

The Commission responsible for the production of this Report was constituted as follows :—

Chairman :—FRANCIS ALLEN, ESQ., J.P., M.B.E.

Members of the Commission :—

BLAKE, THE REV. BUCHANAN, B.D., D.D.
Fellow of the University of Bombay; Minster of the United Free Church of Scotland; Author of works on Old Testament and Prophets, and *The Meaning of Suffering*.

BLYTH, MISS N.
Probation Officer, Children's Court, Tower Bridge, S.E. 1.

CLARKE-HALL, W., ESQ.
Metropolitan Police-Court Magistrate.

DU CANN, C. G. L., ESQ.
Barrister-at-law.

ELLIS, MISS EDITH.

HARLAND, B. T., ESQ., J.P.
Justice of the Peace for Croydon.

LEESON, CECIL, ESQ.
Secretary of the Magistrates' Association.

LLEUFER-THOMAS, D., ESQ., M.A.
Stipendiary Magistrate of Pontypridd and Rhondda; Member of Executive and "Treatment of Offenders" Committee of Magistrates' Association; Member of Justices' Visiting Committee of Cardiff Prison and of Licensing Committee, co. Glamorgan; President of Welsh School of Social Service.

LYALL, DAME BEATRIX HUDSON, D.B.E., L.C.C., J.P.
Member of L.C.C. for E. Fulham; Member of Housing, Parks, and Public-Health Committees, Old Age Pensions Committee, and Central Appeal Tribunal. President of Mothers' Union (Lond.).

LIST OF COMMISSION MEMBERS

McBAIN, The Rev. Canon, M.A.
Rector, Christ Church, Glasgow ; Warden of East End Settlement; Hon. Canon of the Cathedral Church of St. Mary, Glasgow; Magistrate of the City of Glasgow.

MURRAY, The Rev. S. Glanvill.
Chaplain of Holloway Prison.

NEWMAN, Sir Robert, Bt., M.P., J.P.
Member of Parliament and Justice of the Peace.

POLWARTH, The Rt. Hon. Lord, C.B.E.
Chairman of H.M. Prison Commission for Scotland; also of the Scottish Central Association for Probation, and of Church of Scotland Committee for Social Work.

ROBINSON, Kenneth, G., Esq.
South American Merchant.

SANDERSON-FURNISS, Mrs.
Justice of the Peace for Oxfordshire.

TILLYARD, Prof. F., M.A., M.Com.
Barrister at Law; Professor of Commercial Law and Director of Legal Studies at Birmingham University; Chairman of the Birmingham Court of Referees, and (1916–1919) of the Birmingham Munitions Tribunal.

The Commission are greatly indebted for valuable material and help given by others, particularly to the special Scottish Group, under Dr. Blake, who contributed a most useful report, and to Mr. W. Stewart and the Rev. W. F. Howard.

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CHAPTER I

INTRODUCTION

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Criminal reform is probably the most attractive of all fields to the earnest social reformer. Apart from the morbid interest which crime holds for all sorts and conditions of men in a comparatively peaceful society, serious-minded men and women often find themselves engaged as jury members or Justices of the Peace or as witnesses in the Criminal Courts in the discharge of public duties. Moreover, the immense publicity which crime and criminals receive in an ubiquitous Press brings home the subject to our daily lives. Again, this branch of social study has a direct bearing on the most urgent sociological problems of our time as well as upon the deepest ethical problems of all times. From this point of view, criminal reform has an especial interest for thoughtful people. There is no need here to touch on the fact that crime itself has a special fascination for the thoughtless also through the vivid and violent nature of its events; but this curious result is the outcome: that criminal matters are equally interesting to the thoughtful and thoughtless, and both are therefore not adverse to dealing with this subject.

This interest, so readily aroused, has produced

the popular impression that this branch of social study is peculiarly easy. This impression is erroneous. Yet it remains deep and widespread. Barristers, engaged in other branches of the Law, imagine that Criminal Law is easy; County Court judges think that their brethren, the police-court magistrates, have a comparatively simple task; the man in the street can always tell you whether any notorious accused person "did it" and what he or she "ought" to get. Yet to those who actually have first-hand experience of these matters, it is well known that work connected with crime presents appalling difficulties, particularly from the standpoint of practical reforms. Only those engaged in the practical work can be fully conscious of its inherent difficulties, which are in inverse ratio to the ease with which superficial judgments can be uttered upon problems of bewildering complexity. We therefore desire to record, at the outset, a warning against the theory that crime and criminal reforms are easy, and that this field of thought and action furnishes a playground for the well-meaning. As much as any other field of study—and perhaps more than most—it calls for wide reading and careful thought. Above all, it calls for acquaintance with humanity, both in the abstract and with individuals, and a readiness to come ourselves into personal contact with its problems.

While warning the enthusiast of the fact that this subject is not easy, it is necessary at the same time to guard against the opposite danger of exaggerating its difficulties. Many earnest-minded men and women who have actually experienced the diffi-

culties, come to regard them as almost insuperable, and are tempted either to give up the apparently hopeless task of reform, or to seek comfort in mere palliatives. But we who are Christians cannot permit ourselves to live in Doubting Castle or perish in the hands of Giant Despair. Faith forbids. Though there may be no easy magical solution to be found in a formula, we may count ourselves, in Browning's words, but "baffled to fight better," recognising this, that to apply our Christian principles to crime is not more difficult than applying them in our own lives. And it is in the faith that, by working upon these lines, we shall find success, though not immediately nor without toil, that the problem of crime should be attacked.

It is encouraging to be able to record that in most of the numerous suggestions which have been submitted for the consideration of this Commission, something of this spirit is either explicitly or implicitly expressed. The suggestions have ranged over a very wide and diversified tract of country indeed, as is only to be expected from the nature of the subject, and the room for different views, legal, medical, humane, upon it. Hence the task of collating these suggestions and presenting this summary has not been a light one, and now that it is accomplished, two opposite schools of thought are likely to be disappointed. The first school is the body of thinkers whose suggestions are Utopian (if this word may be used in an inoffensive sense), in that it is utterly impossible to apply them at the moment in the world in which we live. This

disability is, we gladly recognise, no reason for ruling them out of court entirely, but we hope that they, on their part, will understand our need to stress the practical reforms, and allow us to point out the need for progress by stages. Half a loaf is better than no bread, and it is useless to destroy a League of Nations because one is in favour of the total abolition of war to-day and not to-morrow. The second school is that of those who pin their faith to some severely practical but limited method, such as Borstal or the Probation system, and who imagine that by the collection of facts and statistics upon their pet method, we shall attain salvation. While the contributions of this school have been most valuable, we trust that those who belong to it will forgive our pointing out the necessity of keeping a sense of proportion. There is, alas! as Euclid told a princeling, "no royal road to Geometry," and there is no infallible system for the healing of crime in the body politic. Nevertheless, we have been greatly indebted to this school for its contributions, and we recognise the value of its specialised activities. We have endeavoured not to lean more to the school of Mary than to the school of Martha, and while keeping our feet upon the solid material earth, to hold aloft the banner of the spiritual ideal.

Perhaps it may be of value to explain briefly why we adopt this attitude. States and their criminal legislation, as we know them now, are the gradual growth of the ages; they have not suddenly assumed their present form. So that though they are capable of further development and need much improvement, they have a certain fixity of form

which determines the line of progress and prevents a very great change or radical alteration—at least immediately. The influence of Roman law was in early days a powerful formative force—this is recognised to-day by all English lawyers having to acquaint themselves professionally with the Roman system of Jurisprudence—and though higher ideals, such as those of Christianity, have been in some measure assimilated, it is obvious that the whole conception of our Criminal Law makes it very difficult to embody the essential principles of Christ's teaching and to bring the system as a whole into complete harmony with that teaching.

Hence when even skilled Christian reformers endeavour to make changes such as are suggested by their conviction of what the highest ideal requires, they are met with the objection that their proposals are too ideal and therefore not within the realm of practical politics. The reforms are stoned with such stones as " sentimental " and " academic," and the proposals are considered as outside the possibilities of realisation. Now, while we have to admit that we cannot in one great act get complete Christian changes made in the law or in its treatment of those who have violated its provisions, or in any sudden manner secure the acceptance of better methods or higher principles, it is the bounden duty of all who look for a further application of Christian teaching to the treatment carried out by the penal system (and in particular of those who are concerning themselves with the inquiry now before us) to concentrate their best thought on the questions involved, and to flash such light as they

can upon the present situation. While we cannot at once " make all things new," and therefore have to accept and carry out much that we may deplore in existing conditions, we have yet to be profoundly thankful for much Christian improvement that has taken place in the law and its administration in the course of the last hundred years or so. We ought to be no less thankful, too, for many indications of a better spirit and attitude on the part of those who make our criminal laws, and on the part of those who administer them. All these represent steps forward to our ultimate goal, and should be fully and frankly recognised as such. Advance in criminal and penal reform may be slow, but it is sure, and in this lies the hope of its being abiding.

Finally, it is our deep assurance that, if individuals and the community as a whole were more permeated by the highest Christian ideals, the State which represents them would adopt a more earnest and interested attitude to the improvement of social conditions, and show a greater desire to diminish existent crime and to prevent future crime.

CHAPTER II

THE TEACHING OF JESUS

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In considering this question, the most important of all for ourselves as students of the criminal problem, we are faced by no little difficulty. First, the teaching of Our Lord is implicit rather than explicit upon this subject, for He came into the world as a Saviour and not as a social governor and jurisconsult. Even where Christ's teaching deals directly with some phase of criminality, it is not always easy, therefore, for us to discern the lesson to be applied to the criminal system of our day. This is largely due to the fact that Our Lord was more concerned with the "sinful" rather than the "criminal" nature of thoughts, words, and deeds; and that He regarded offences as offences against God and man, and not so much as offences against codes and States.

The distinction between "crime" and "sin" needs to be clearly understood in considering Our Lord's teaching. That all crimes are not sins is clear from the charges dealt with in our criminal courts, *e. g.* failing to abate a nuisance or keeping a live Colorado beetle. Indeed conduct may be "criminal" which is a benefit instead of being an evil to the community, as in the case of *Rex* v.

Ward (4 Ad. and E., p. 384), where a defendant erected a sloping causeway to the benefit of Cowes Harbour. On the other hand, conduct may be incredibly wicked and yet not break the criminal law of England. A man who callously stood by and watched a child drowning in a shallow trough (to quote a famous example from a Cambridge University professor of criminal jurisprudence) commits no " crime " nor even a civil wrong according to the law. Yet most people would call this a crime unhesitatingly. Ethical crime and legal crime are often distinct, but they may be combined in one act. Just as the same man may be a father and a brother, so the same act may be a crime and a sin. It is necessary, however, to appreciate the distinction when contemplating Our Lord's teaching and trying to apply it to present-day crime.

We think that the first and most fundamental thing is to endeavour to ascertain the great distinctive principles inherent in Our Lord's teaching. Such principles as Love and Redemption at once occur to the mind, and we cannot but face the fact that our criminal system is built up on entirely opposite principles. Retribution rather than Redemption is still the keynote of " sentences " upon criminals. We do not suggest that Retribution is absent from the teaching of Christ or has no place in a Christian system of criminal jurisprudence. But Retribution must be the servant of Redemption and never its master, and a very subordinate servant at that, otherwise it is no more than intelligently applied vengeance and cruelty. Punishment can certainly never be tolerated for its own sake, and it

may be doubted how far it ought to be tolerated for the sake of others; at any rate "exemplary" punishments and sentences imposed from "a duty to Society" ought to be very narrowly scrutinised. We Christians are on firm ground when we preach unceasingly that Redemption is the method of Christ, and that punishment is only permissible when it subserves the interests of Love. Gladly we recognise that a great deal of worldly opinion is slowly coming to recognise this cardinal goal of Redemption as the correct aim of all efforts to deal with crime.

Before dealing with the general teaching of Our Lord, it will be as well to consider definite instances when He was brought into relation with crime and criminals. It is worthy of note in passing that Our Lord was reproached with being the associate of what would be called the "criminal classes"; of publicans and harlots and sinners. There is a lesson here for us, namely, the need for our personal contact, as working Christians, with those whom the law calls criminals. "I was in prison and ye visited me," is more convincing than "I was in prison and ye expressed the most unexceptionally Christian sentiments about similar cases from a comfortable place outside." Such contact should be free from all suspicion of patronage: it should be quiet, ordinary, human intercourse, so that one becomes looked upon not as a semi-official person, but as a friend. Difficult as it is in most cases to establish such contact, there are yet rare spirits who can succeed in so doing and their labours are amazingly successful. But the value of the contact is

not to the criminal alone. We venture upon the paradox that the professing Christian can learn much, even in spiritual things, from those whom we call "criminal"; and certainly direct contact can enlighten one as to the difficulties and complexities of the problem of crime as no amount of reading and argument can. Our Master loved "sinners" as individuals, and it is for us to do the same.

The instances in which Our Lord dealt directly with matters of crime and penology have been considered by one of our members and embodied in a short paper. It may be that many people will not agree with all that he says, but we think that his conclusions will be found provocative of thought and lead to further study by others of Our Lord's teaching. Our contributor says:

> "(1) While apparently accepting the judicial system of His time and country, the allusions which Jesus makes to judges and courts are often flavoured with unmistakable irony. It is hardly necessary to recall the magistrate who investigated the widow's plea, not on the merits of the case, but from prudential motives and a desire for tranquillity. Nor can we quite miss the satirical vein in the advice to settle a case out of court, as, whether the charge is fair or false, there is a probability of lingering in prison until the gaoler has drained his victim dry. One has a feeling that irony is not entirely absent from the elaborate gradation of liabilities in the warning against anger—civil court, ecclesiastical court, final judgment. The need of

judicial procedure, however, is not by any means denied, although the best instances of this recognition brings forward at the same time the thought of personal relations. In St. Matt. xviii. the brother who has injured another, is to be gained by private persuasion; if he is recalcitrant, one or two witnesses are to be present at the next attempt; the third stage is to bring the case before the congregation, and if the force of public opinion does not convince him of the need of amendment and restitution, he can no longer be retained within the fellowship whose spirit he is determined to violate. On critical grounds, this passage is often suspected, as it is peculiar to Matthew, and, like several other sayings in that Gospel, is associated with words that sound rather like a reflection of a more developed ecclesiastical situation. But in the original Aramaic the saying would probably sound far less 'ecclesiastical' (cf. Merx, *Die vier Kanonischen Evangelien*, 267 f.), and whether referred to the synagogue or to the small society of Christian brethren, it recognises a principle which is vital to the existence of any community as well as to the peaceful working of any social order. The wrong-doer is to be won from his folly if possible, great patience is to be exercised, but wilful defiance of the common good as defined by the general verdict is to be recognised as self-exclusion from the privileges of the common life.

"(2) A special sternness is heard in the voice

of Jesus when He denounces offences against 'little ones.' With all His sympathy for the wayward and erring He stood as the protector of the weak. The interests of the children, whether ungrown-up or over-grown, must not be sacrificed to the cruelty or the callousness of the strong. To put a stumbling-block in the way of those whose characters were as yet unformed was to forfeit any claim to mercy in the present order. Better for a millstone to be fastened round the neck of such a miscreant and that he should be cast into the depths of the sea. Of course allowance must be made for Oriental hyperbole, but preventive discipline for the selfish wrecker of heart and home is better than the sacrifice of the helpless who have not yet learned to stand alone. The vigorous sanity of the teaching of Jesus exalts compassion and pity and mercy, but has no room for sentimentality.

"(3) The late, but probably genuine, tradition of Our Lord's treatment of the charge against the woman taken in adultery is an instance of the stress laid upon personal relations with those who have done wrong, rather than an indication of His attitude towards the law and the punishment of the guilty. It is, however, a warning to judges and juries to search their own hearts before condemning a brother or sister, for the task of sitting in judgment is a spiritually dangerous one. It was for the wronged husband to take his suit to the proper court if he sought redress and

for release from a tie which had now lost its sanctity. It was no concern of those meddling theologians who were dragging this miserable victim into publicity, while they gloated over the salacious details of the case. Jesus was not the constituted judge in such matters. But there was one thing He could do. He might lift her from a life of shame, and rekindle the desire for better things, so that, like the harlot who sought Him in the house of Simon the Pharisee, she might regain her purity.

"(4) The ethical counsels about non-resistance of evil, lending without hope of repayment, turning the other cheek to the smiter, unlimited forgiveness, are (it is suggested) principles relating to the personal relationships of members of the Kingdom of God, rather than laws of the general social order to be applied indiscriminately. Resentment of a personal insult, remorseless pursuit of a personal debtor, irritation and loss of temper with a personal opponent, are all shown to be unprofitable. The grand aim of the son of the Kingdom must always be the conversion of the opponent into a friend, and if the saving sense of humour is a weapon in one's armoury, it may serve not only to keep one's own soul sweet, but even to disarm the astonished adversary. The daring paradox about the two garments and the rapacious creditor is a case in point. But Jesus has not touched upon the solemn duty of safeguarding the rights of others. The whole meaning of the petition in the Lord's

Prayer is degraded into a cynical mockery if we interpret it, 'Forgive us our trespasses, as we forgive them that trespass against our neighbours.'

"(5) Nevertheless there are two ways in which this teaching of Jesus is seen to be capable of a wider application. The Kingdom of God is in its first beginnings a fellowship of men who own the kingship of Jesus and are controlled by a common loyalty to the mind that was in Christ. But it is to spread its leavening influence until the whole of the society has accepted the Christian view of God and the world. From this it follows that, as the Christian attitude captures the imagination of society, the main concern about the criminal will be to bring him into a network of personal relations rather than to consider his abstract relationship to an impersonal system of law.

"(6) But inasmuch as the ethical teaching of Jesus is rooted and grounded in religious ideas, we cannot ignore the place given to retribution in the theology of the Gospels. A careful study of the teaching of Jesus in the light of comparative synoptic criticism has brought several considerations to the fore. The contrast between the contemporary conception of the vindictive judgment of God as set forth in the late Jewish apocalypses and the absence of thought of the angry God in the Gospels is full of meaning. The parabolic method of teaching is not to be confused with the allegorical, so that attributes belonging to the king, or the nobleman, or the

master of the house in such stories must not be transferred to God. Moreover, a tendency to heighten the apocalyptic imagery in some of Our Lord's sayings is sometimes discernible, especially in St. Matthew's report of the teaching, and this leads to the suspicion that in some other sayings, where synoptic criticism does not come to our help, the words of Jesus may have received some eschatological colouring in passing through the minds of his Jewish reporters. (This question has been worked out very fully by Miss Dougall and Mr. Emmet in their book, *The Lord of Thought*, especially ch. xiii, xiv, xix). This is not to belittle the terrible realism of our Lord's warnings about sin. But retribution is seen to be internal rather than external in its operation. In the region of character sin works out its dreadful consequences, and as there is continuity between this life and that which is to come, the doom of the future is added to the disabilities and the deterioration which are suffered in the present life. Of course moral degeneracy is not without its painful results in the external world, as the parables continually remind us. But the leading thought concerning punishment is that of an immanental teleology. Forgiveness is, therefore, not the remission of penalty more or less arbitrarily imposed from without as an equivalent for the evil done by the transgressor. It is a saving influence introduced into the roots of character. The pangs of hunger and the discomforts of the swine-

herd's life were suffered as the direct result of months of riotous waste, and they served their purpose in awakening regretful thoughts of the distant home no longer dull and uninviting. But the father's kiss of reconciliation, his word of forgiveness, and the reinstatement of the recovered son in a place of trust fertilised the roots of character and made possible the recovery of the desire to work hard and to serve the common interests of the farm and household. It would, however, be as wrong to overlook the wholesome effect of the painful experience in the far country as to ignore the speedy restoration that followed the free forgiveness by the long-suffering father."

Another group of contributors to this question of the teaching of Jesus upon criminal matters has furnished us with a joint report which is as follows :

"The view of those organising the present inquiry is that the highest ideals are expressed in Christianity, or, to put it more correctly, in the new spirit breathed into the world by Christ, and the new and higher attitude towards men and women taught and urged by Him. This new spirit and attitude is a challenge to the best in us : it ever makes the highest demands upon us, and calls forth the best. It cannot, however, become a hard-and-fast code. It must remain what it was at the first, a living inspiration, and a never-to-be-exhausted appeal. We are apt to rest on the past ; it urges us

on to a better future, to that best which is to be. What in Christ is so unique is His personal appeal, rather than any set regulations or rules. He gives the world principles ever capable of fuller and wider application as conditions improve, and not fixed laws, so definite and stereotyped that they resist all improvement, presenting a static element out of all relation with a living, throbbing universe.

"(1) To Christ the power of overcoming wrong and evil was that of personal goodness embodied and expressed in persons, as in Himself. He had no belief in force of any kind as a permanent or effective remedy. What we would emphasise is that while in certain circumstances and as a temporary measure, force may be used, as expressed in the use of the civil power as ordained by God, and as used by Christ Himself in cleansing the Temple, which He called His Father's House, He did not rely upon it, refusing to use it in His own defence, and saying, 'They that use the sword shall perish by the sword.' Moral diseases had to be cured by moral methods; wrongdoing, He saw, resulted from a suspicion and wrong attitude created by ignorance of the truth and reality of things. Hence it could only be ended by those who know these things so moving with a new spirit to the help of their fellows, that those who were apparently unable to do the right, and were led continually to do the wrong, might learn a better way. The good man has to put an end to all causes

of wrongdoing in himself, and in the outward state of things, so far as it comes under his control, and so far as he can influence other good men to exercise a similar control, that, existing causes of wrongdoing being removed, others may cease their evil ways. The responsibility of each for all is here a fundamental truth, for no man can live to or for himself in a detached or isolated manner, however much he may try to do so. For we are all bound up in one whole, and in such a way that if 'one member suffer, all suffer together with him.'

"(*a*) Thus in a moral State, such as that in which we live, there can be no neutrals nor mere observers. Each and all are vitally concerned, for what damages or hurts any one part of the whole damages and hurts every other part: what affects the well-being of the whole affects every part, and what affects any part affects the whole. In this way the responsibility of each individual for the well-being of others is a fundamental principle, which can only be ignored or violated by anyone to his own loss. It thus follows not only that the true citizen will not do anything that may hurt another or cause him loss or suffering, but, in virtue of his very goodness, must actively concern himself in doing his utmost to remove all cause of loss or suffering or hurt either in himself or in others, or in the condition of things. If, *e. g.*, he sees anything wrong, he is bound to report it, or if he sees anyone in a state of mind or body likely to do what is

wrong or in the act of wrong doing, he is under obligation to take immediate steps to prevent the wrongdoing being done, or to report the matter to those in authority, so that the wrong may be put right. If anyone knows or is aware of causes working out harm to the community and takes no steps to prevent the harm, or fails to report the state of things, he becomes by his acquiescing in an evil condition as guilty as those who are actually causing the wrong. It is unfortunately too often true that the authorities do not get the assistance of the public that they should.

"(*b*) Just as there is a supreme need for the development of a social conscience on the part of individuals, so there is an equal necessity for the development of a similar conscience on the part of the whole community. A high communal sense of what is best for the general interest, and for a wise and efficient administration of the law, is of the greatest importance. The danger, however, is always present that what is the duty of all is the duty of none, and is therefore neglected. This high communal conscience will come as the result of the development of individual responsibility, under the guidance of which and in a wise and helpful way each may be his 'brother's keeper.' It is a true and essential maxim: 'Salus reipublicæ lex suprema.'

"(2) In a barbarous or semi-civilised community each individual seeks to vindicate himself by taking action for himself against the one

who has done him wrong, but in an ordered State the duty of self-vindication has been handed over to a recognised authority, and the State becomes responsible. But the necessity for vindication still remains. The wrong done to the individual has to be adequately dealt with, for that is a wrong done not only to the individual, but to the community. The wrong is not something abstract, but actual and concrete, and has to be treated as such. The State must deal not only with the wrong-doer, but also with the victim of the wrong action. The condition of the victim of the wrong, as far as possible, must be restored to the state in which it was before the wrong was done, and so reparation for loss or damage by the wrong-doer must be made good. Here making good is not something abstract or legal, some satisfaction of law, but a definite reparation. And if this were enforced, it is believed, a very powerful deterrent force would immediately come into operation. Whatever treatment is meted out to the wrong-doer must bear some definite relation to the wrong done. Any treatment that does not include full justice to the sufferer, and such dealing with the wrong-doer as will cause him to feel his personal responsibility, is unjustifiable. Whatever penalty is suffered should do these two things : (1) make good the loss done, and (2) have the effect of adequately reforming the wrong-doer. It is quite true that the State should in some way mark its sense of the wrong that has been done. But this should not stand

as it were by itself. It can never be sufficient to view the wrong-doer simply as a breaker of a law which has to be vindicated, but in relation to the whole circumstance of the case. Thus while seeking to vindicate the law, the Courts will remember the victim of the wrong action, and what would be an adequate treatment of the wrong-doer so as to prevent him repeating his offence.

"(3) When in the teaching of Christ, in harmony with the highest ethical principles, emphasis is laid upon the importance of the motive in the case of every action, attention is at once called to the question of the character of the wrong-doer. And the responsibility of the State to deal well and wisely with all those elements and factors which are contributory in any degree to the formation of character at once appears. Society is damaged not only by single acts, but by the character of the persons by whom these acts are committed. A merely negative policy of repression or punishment, which does nothing for the improvement of conditions and the betterment of character, especially in the formative years of our young people when they are all under the control of the State through Education Authorities, is felt increasingly to be wrong. Something more positive and preventive than punishment is required.

"(4) A very high obligation, therefore, rests on our Courts of Justice, to whom the administration of the law is entrusted, to be more

concerned in some distinct and definite way with the causes of wrongdoing than they are. They deal at present with the facts of the case, and base their decisions on the precedents of common law, trying the impossible task of fitting the sentence to the crime. The wrong-doer may be more sinned against than sinning. Wrong-doing is often a disease, and the question which ought to be before the Court nearly always is, what treatment does this accused person require, rather than what sentence should be pronounced?

"It is urged by some that medical or other evidence as to the character of the accused is quite impossible, but that after the facts have been proved, the mental or physical state of the prisoner may be considered with a view to the nature of the sentence.

"On the other hand, it is urged that all the circumstances leading up to the case should be fully examined and dealt with before the indictment is drawn up. Guilt cannot be proved until this is done. The business of the Court will be one of equity and largely the improvement of social conditions by throwing light upon them."

It is no disparagement of the above contributions to this subject to say that we think that the subject of the teaching of Our Lord as it affects crime needs a great deal of further study and deeper thought by all of us. Certain broad conclusions do emerge, however. First, that in the age-long

struggle between Humanity and the Human Law Our Lord was no vindicator of legalism. "The Sabbath was made for man, and not man for the Sabbath." Human considerations must override purely legal ones. Secondly, that Our Lord's mission was Redemption, and that therefore our criminal system, if it is to be a Christian criminal code, must proceed upon redemptive lines. Thirdly, that the Forgiveness and Love which Christ taught, must have their place in criminal jurisprudence and penology as in every other walk of life. (In passing, we note that forgiveness is "reconciliation," not necessarily the "letting off of consequences," and that forgiveness implies repentance as a preliminary to reconciliation.) We do not imagine that in stating these three broad principles we have satisfactorily covered the whole ground of Christ's teaching; far from it. But we do feel that, if the principles we have enumerated are firmly grasped and courageously applied to criminal matters, we shall come within measurable distance of reaching the Christian ideal.

Tested in the light of these leading principles, how does our criminal system stand? The inquiry is too vast for complete answer here, but we can and do say that our system, as we know it, is in most respects un-Christian, and in many respects anti-Christian. We indicate a few of the well-known respects in which our criminal system fails. Take criminal trials. It is un-Christian that the moneyless accused should go undefended (as he generally does) while rich men can always purchase skilled and trained advocacy. Such palliatives as "dock-

briefs" and "poor prisoners' defences" hardly touch the fringe of this problem. Or take the scales of punishment. It is un-Christian that such heavy sentences should be given for offences against property and such light sentences for offences against persons. The Christian Faith holds personality far more sacred than material property, "which moth and rust doth corrupt." Or take the nature of criminal penalties, which are the infliction of seizure, suffering and even slaughter. Or take the attitude of the community to the discharged prisoner, which is so cold and Pharisaical because he has "lost his character" (which really means only his temporary reputation), that generally he cannot obtain honest work and is forced back into crime for a livelihood. The heartrending catalogue can be continued almost indefinitely, and the deeper one's investigations go into what is sometimes described as "criminal justice," the more one realises the faults and failures of the existing system from the Christian standpoint, and the need for its reform being undertaken by the efforts of Christian people.

CHAPTER III

THE NATURE AND PREVALENCE OF CRIME

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We have already indicated that a distinction must be drawn between the sinful and the criminal nature of any act, but it is necessary to look into this matter more closely. We have to inquire into the nature of crime in order to understand what it is, for it is useless to propose remedies unless the nature of the disease is exactly known. Everyone of course imagines that he or she knows what a crime is until asked to state their definition, when they find that in reality they do not know.

What is a crime? That simple-looking question has taxed the ingenuity of trained lawyers and writers upon jurisprudence for generations. It has even been suggested that the difficulty is insoluble, and it is not to be wondered at that many of our helpers have blundered over it. "An action is called a crime when it is viewed in relation to the laws of the land and is a violation of any of these," suggests one group of contributors to our discussions. Clearly this is not so. An infraction or violation of the laws may merely give rise to an action for damages and be what lawyers call a civil, as opposed to a criminal, wrong. Our legal system has always drawn a distinction between

offences which are "mala in se" and "mala prohibita." Sir William Blackstone in the great classical text-book of English Law called *Commentaries on the Laws of England*, dealing in the fourth volume with "Public Wrongs" or Crimes, gives two dissimilar definitions. Mr. Justice Stephen's definition has also been criticised by modern writers. Many attempts have been made to propound a general definition of crime which shall distinguish wrongs which are criminal from those which are merely "civil." Moreover, as the distinction between crime and other legal wrongdoing is not peculiar to Great Britain, but is familiar in every civilised country, attempts have naturally been made to attempt to express a definition of crime which shall be applicable not merely to England, but to all countries in which this distinction between civil and criminal law prevails.

If professional writers on jurisprudence and practising lawyers feel this difficulty in defining the difference between criminal and civil offences, it is to be expected that we shall find greater difficulty. Austin, the great English Jurisconsult, is generally considered to have suggested the true principle of demarcation between a crime and other infractions of the law when he defines a crime's distinctive attribute as the fact that "its sanctions (*i. e.* punishments) are enforced at the discretion of the Sovereign." This means that the punishments of criminal procedure are only remissible by the Crown and not by any private person. But in England even the Sovereign cannot pardon the sending of a person into prison outside England in

breach of the Habeas Corpus Act, and a public nuisance while unabated is unpardonable by the old common law. All this serves to show the inherent difficulty in defining a " crime " in the eyes of the law, and the necessity of distinguishing it from a civil wrong.

" Crimes are wrongs remissible by the Crown if at all " is a good working definition from the legal standpoint, and " forms of legal wrong recorded by the law as specially injurious to the community " an instructive general description of the nature of the crime.

We need not pursue the legal definition further. Our task is wider than the lawyer's, for we have to regard these public wrongs from the ethical as well as the legal standpoint. Which then are morally crimes and which of the so-called crimes can we ignore? At once it is clear that there is a whole body of State-created " crime " dealt with by criminal courts and by imprisonment, which we can ignore for our purposes, because this crime is venial indeed from the moral and spiritual standpoint. To neglect to obtain a certificate of exemption from vaccination, or to fail to take out a licence for a dog or gun, to leave a car in the street, to forget to comply with some minor statutory regulation involving even less moral turpitude, may be a " crime," but no one thinks of such offenders as criminals. These " quasi-criminal matters " are outside our purview altogether. The crime of which we have to take cognisance has two elements, namely, that it breaks the law not merely of man but of God.

But while legal " crime " on the one hand is too broad for our purpose, on the other hand it is too narrow. We have already alluded to the case of a man who stands idly by rather than stretch out a hand to save a drowning infant as not being a criminal offence according to law. This, however, is unquestionably a real crime. Again, it is a legal crime for a man to rob me of my purse containing twopence, but it is not a legal crime if he robs me of my wife by seduction. Adultery, again, is a real crime. Instances can easily be multiplied to show that there are ethical crimes as well as legal crimes, and many of these ethical or real crimes our criminal law entirely fails to take into account. In some of these cases of course the criminal law needs strengthening and extending, but in others it is clearly undesirable to bring ethical crime within the reach of the law. Thus a man who intends to steal an umbrella from a club and actually takes an umbrella in pursuance of that intention is clearly a thief. But if the umbrella turns out to be his own he has committed no theft at all in law. Legal crime consists of two elements, (*a*) a mental element of will or intent, (*b*) a physical act or omission—" Actus non facit reum nisi mens sit rea," as English lawyers say—whereas ethical crime may consist of the mental condition only. When Garrick said that as Richard III he felt as a murderer, Dr. Johnson retorted, " Then he ought to be hanged," meaning that ethically he was a murderer if he harboured murderous feelings. It is the murderous feeling that makes the murderer, not the mere physical blow, for if one strikes by accident and kills, one is

neither legally nor ethically a murderer, but the mere victim of a misfortune.

We feel that it is upon the ethical standard of crime, which includes the major part of "legal" crime, that we professing Christians ought to work. This seems to be in harmony with the Gospel teaching:

> "Ye have heard that it was said by them of old time, Thou shalt not kill; and whosoever shall kill shall be in danger of the judgment:
>
> "But I say unto you, That whosoever is angry with his brother without a cause shall be in danger of the judgment. . . .
>
> "Ye have heard that it was said by them of old time, Thou shalt not commit adultery:
>
> "But I say unto you, That whosoever looketh on a woman to lust after her hath committed adultery with her already in his heart."

Unless we look upon crime from the ethical standpoint instead of the merely legal one, we shall never understand the real nature of crime. One of our contributors points out: "The question is not so much the actual wrong that the accused has committed, but what are the underlying causes which made him commit it. It is only when these causes have been fully considered and taken into consideration that true justice can be administered." We venture to add, "and that the wrong-doer can be reclaimed." The underlying causes may be external to the criminal, such as drink, environment, lack of education, etc., and with external causes we

deal in a subsequent part of this Report. But on the other hand they are often purely internal, and it is important that we should realise that theft, assault, murder and the like are first conceived in the heart and brain before they are born into the world of deeds.

Before leaving this topic of the nature of crime, it is necessary to deal with one other aspect. What of those legal crimes which may not be ethical crimes at all, since they arise from virtues? As historical examples take the "treason" of Flora Macdonald or George Washington, or other crime committed from political motives, such as a seditious speech by a man or woman of normally blameless life. What of petty regulation-breaking called "crime"? Considering such examples, we lay it down that the limitation of the idea and nomenclature of crime to such legal wrongdoings as offend, more or less violently, our moral feelings is very desirable. Such a limitation we think naturally suggests itself to reasonable men's minds and is implicit in our ordinary conversation about crime. This exclusion of certain matters now termed "criminal" from the denomination of crime is important, and has practical bearings as regards "political" and "juvenile" crime. It follows that such offenders should not be incarcerated in criminal prisons with real criminals. Light has been shed upon this whole matter by a group of our helpers as follows:

> "If the law labels a man a criminal who is acting according to conscience in the high realm

of religion and doing no harm to another, the law is bad. Before God and all good men a man who thus suffers for well-doing ranks as a benefactor of his race and is blessed in his deed. It is worthy of notice in passing that those who may violate petty local regulations, such as may be necessary to preserve order in the streets, need not be labelled in the criminal class or placed along with them. This applies to a large number of juvenile offences. . . . It is a common mode of speech to speak of a criminal as one who violates not only the law of the land but the moral law itself; hence it is desirable that this name be not given to those in whom no criminal tendency has been discovered.

"Laws which invade the realm of conscience and interfere with such actions as do no harm to another should not be on the statute book of a civilised State."

With regard to the prevalence of crime, it is essential to ascertain the most frequent form of crime, and if possible the reasons for its committal. But it is not necessarily accurate to assume that, because in one or two particular years the numbers of offenders increase, the general tone of morality of the public is lower or vice versa. It may be the culminating effect of some Act of Parliament or such special circumstances as the war, which affects the life of the nation in a way that opportunity for crime is lessened or increased.

The receptions into prisons of those sentenced by

the ordinary Courts averaged from 1909 to 1914, 158,782 a year; from 1914 to 1919 the average dropped to 53,068 a year, owing doubtless partly to the extraordinary circumstances of the war, but particularly to the passing of the Criminal Justice Administration Act, 1914, which permitted time for payment of fines in lieu of automatic commitments.

The receptions of the twelve months ending 31st March, 1920, were 35,439; for 1921, 43,916; for 1922, 47,126; and for 1923, 47,371.

The higher figures for the last three years must to a very large extent be due to unemployment, which gradually but surely demoralises a man and causes him to drift into prison. Relaxation of home restraint partly due to the absence of the men at the war, general laxity of conduct owing to abnormal social conditions, and dishonesty in trying to supplement reduced salaries after an accustomed high rate of living during the period immediately following the war, all these, including the unfortunate mania for betting, contribute to the general increase in crime since 1919.

The receptions into prison of debtors or on civil process have risen from 1830 in 1916–19 to 12,995 in 1922–3. This increase is composed of cases of non-payment of wife maintenance, bastardy arrears, or arrears of income tax, but there is no increase in ordinary County Court debtors. Here again may be traced the aftermath of war. Ill-assorted marriages made hastily, payments for illegitimate children, and the shirking of responsibilities, sometimes through inability to pay owing to unemployment, all these contribute to these startling figures.

Of the 47,371 receptions in prison for the year 1922–3, 37,336 were men and 10,035 women; of these 59 per cent. (22,108) and 84 per cent. (8937) respectively had been previously convicted. It is interesting to note the following particulars of these convictions:

14,540	men	and	3004	women.	1	to 5	times.
3,134	,,	,,	1120	,,	6	,, 10	,,
2,352	,,	,,	1186	,,	11	,, 20	,,
2,082	,,	,,	3127	,,	over	20	,,

These figures do not indicate any great reforming influence of prison life in the past, but do show the great difficulty of redeeming persons when once accustomed to prison, and the need of trying every possible alternative in preference to a first committal.

Among men, by far the larger number of offences are for larceny, drunkenness, assault, false pretences, and burglary, in the order named; among women, drunkenness, prostitution and larceny contribute the greater number. Under severe restrictions during war-time, a reduction of 85 per cent. of the amount of public drunkenness was effected, and despite relaxations in peace-time, drunkenness is still much less than that prior to the war.

The receptions in prison in 1912–13 for drunkenness, assaults, etc., were 52,149; in 1920, 8752, and in 1922–3, 11,019. This reduction is so remarkable that it would appear a proof of the efficiency of control of hours of sale, together with diminution of the strength of what is sold. Further improve-

ment may well be sought along the same lines, which have proved so successful during the last few years. Turning to youthful offenders, aged 16–21, by far the greater number of offences among lads were for larceny. There were in 1922–3, 2967 receptions in prison (exclusive of Borstal), of which 47 per cent. (1397) had been previously convicted. The total receptions for lads are considerably less than two years ago, but still in excess of pre-war numbers, whereas those of girls have fallen to the pre-war average, and are half those for the year 1920–21. It appears that girls are more amenable to home restraining influence than lads, who are often led away by a strong-minded ringleader—probably at first by love of adventure, which develops, if undirected, into the serious forms of larceny and burglary. It should be added that unhappy home conditions contribute largely to juvenile crime. 470 lads and 46 girls were sent to Borstal Institutions in 1922–3, as compared with 504 lads and 56 girls in 1921–2. It is stated that a large number of these girls turn out satisfactorily, and while admitting gratefully that these Institutions are a great advance on anything previously attempted for juvenile offenders, it is hoped that further experiments will be made as to such methods of treatment, so as to get the best possible results.

At the conclusion of this section of the Report, it may be helpful to sum up briefly our conclusions upon the nature of crime. Legal crime is, we suggest, at once too broad and too narrow for definition. From it must be subtracted those offences which do not offend the moral nature of

mankind, and to it must be added those ethical offences which the law does not classify as crimes at all. The criminal code ought to be more firmly based on ethics than it is, and a distinction drawn between real crime and the so-called crime which, ethically speaking, is either not criminal or at worst venial. This would lead to a strong distinction also being drawn in classification and treatment between the criminal and the non-criminal offender, which we think is both necessary and desirable.

CHAPTER IV

THE CAUSES OF CRIME

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An assumption lies behind a great many judicial sentences and punishments that crime is due to the innate wickedness of the individual. That there is evil in the nature of all of us, even the saintliest, is undoubted, though in comparatively few does that evil express itself in criminal acts. But to what extent is crime due to the inherent depravity of individuals? And to what extent is it due to external factors operating upon the individual but for which the community as a whole is responsible?

Criminologists formerly held that all crime was due to an innate depravity. A murderer was not an ordinary being in the view of the old school; criminals, like poets, were born and not made. There was, according to the Italian school of Lombroso, Garofalo and others,[1] "an anthropological criminal type," and this theory met for a long time with wide acceptance. According to the believers in this school you can recognise the criminal by pathological signs visible in the skull, face and

[1] Cesare Lombroso's book, *L'uomo delinquente*, is still an extremely popular work upon criminology. (See the *Journal of Soc. of Comparative Legislation*, 1910, pp. 220–228).

eyes. Elaborate charts, diagrams and statistics have been solemnly thrust upon the world and some psycho-pathologists actually allocated different eye-colours to different classes of criminals, murderers generally having chestnut-brown eyes, and thieves slate-blue! An English parliamentary Blue Book (*The English Convict*, 1913) tabulated detailed medical analyses concerning 3000 grave offenders. The results lead inevitably to the conclusion that there is no such thing as a pure "born-criminal type"; and one's experience of criminals leads to a similar conclusion.

Most criminals are much like other men, and it is by gradual steps that they have fallen. This conclusion is quite compatible with the familiar fact that there are those who, from innate instinct (perhaps an atavistic inheritance from an early stage in mankind's development), or from defective mind, are, so to speak, "born" criminals. Such criminals, however, are comparatively few in number and we do not believe that even these are hopelessly irreclaimable. We suggest they ought to be segregated (*i. e.* subjected to non-punitive detention in what should be more of the nature of an asylum than a prison, for such born unfortunates deserve pity and care rather than additional suffering inflicted upon them). Such segregation must be for an indeterminate period except where treatment, either medical, spiritual, or both, prove successful in bringing the subject into a condition that makes it safe to release him. Experiments on these lines have been made successfully at Camp Hill and should be further carried out.

Turning to the great mass of crime, we find that its causes must be sought outside the individual himself. Recent developments in criminology have disclosed the great complexity of these causes and their intimate association with sociological and industrial problems. The importance of gauging the causes correctly is manifest. It is only when the causation has been fully appreciated that justice can be administered, and before we can cure crime we must attack its root-causes. Some of these root-causes are well known to all, such as Poverty, Unemployment, Drink, Betting and Gambling, Sweating and Slum-life, Ignorance, False Standards of Life (*i. e.* false romanticism from evil literature and " the pictures ").

We proceed to consider some of these causes in greater detail.

(1) *Poverty*.—The relation of poverty to crime, while not essential, is that inability to supply the needs of the body, mind or soul may lead to wrong ways of meeting these needs. Sheer poverty, however, is rarely the only cause of any criminal act. Dr. Devon points out that the number of criminals is in direct proportion to the density of the population. While no one panacea for preventing the production of criminals can be brought forward, it is quite possible to maintain that the abolition of sweating and slums, the cessation of unemployment or irregular employment, and other social injustices out of harmony with a fair interpretation of the principles of Christian brotherhood, would in their conjoint and accumulated influence diminish crime.

Attention should be drawn to the breeding of a criminal population by discharged prisoners who are not by any means reformed persons, and those of more or less mental defect in our midst. If only prisoners capable of performing worthily their social and civic duties were released, and all mentally defective persons were prevented from marrying by being detained in suitable homes, a chief cause of the production of criminals would be removed. The presence of a large criminal population at our door in the chief cities must have a deleterious influence on the young. Just as there is a floating population of " ins and outs " in connection with our workhouses (so called), there is also a similar floating population of " ins and outs " in connection with our prisons. It is quite true that very many living in good social conditions, with so many educational advantages, owe much of their ability to resist temptation to their more happy lot. But the fact that from the most pleasant circumstances of life criminals have come, forbids any sweeping generalisation as to the influence of satisfactory outward conditions.

(2) *Unemployment.*—This cause (already referred to) is, of course, very closely bound up with poverty, but it has not quite the same effect. It accounts for a large amount of crime against property and applies particularly to juveniles. Boys leaving school at fourteen years of age, and finding it impossible to obtain work, are loafing around the streets with no means of occupying themselves, and without money to spend. They form gangs, the worst element of which becomes predominant, with the

consequent result of theft and house-breaking. Where it is impossible to obtain employment for these, some healthy occupation such as continued education should be found. It is unnecessary to dwell on the deteriorating effect of unemployment on character in every walk of life.

(3) *Bad housing conditions*.—These lead to immorality, incest, drunkenness, assault, cruelty to children, and marital unhappiness. Overcrowding does increase crime, but it must be insisted that it is useless to abolish so-called slum areas, unless the moral outlook and character of the inhabitants is raised. They prefer the rough style of life to which they have been accustomed, and merely migrate to another locality, and reduce it to the same unhealthy condition as the previous one.

(4) *Drink*.—This is the official heading for the largest number of crimes committed. It is often, however, a symptom of underlying causes rather than itself the cause of the crime. While people commit offences of violence under the immediate influence of drink, and particularly excessive bouts of drinking, offences of misappropriation are seldom, if ever, so committed. The drunkenness of the expert criminal, if he is ever foolish enough to give way to it, is his relaxation after the commission of the offence, not the instigation to the committal of it. True, some criminals are teetotalers and many drink who do not commit crime. Yet "I was in drink, sir," and "It was the drink did it" are perhaps the commonest pleas in the police courts. A group of our Scottish helpers write upon this subject as follows :

"The majority of Judges have put on record that the use of alcoholic liquors has been very largely associated with crime, and especially with crimes of violence (not so much with those of theft). It is believed that such crimes arise not so much from chronic drinking, as from sudden excesses which lead men to be violent and to do things which they never would do in their sober moments. The use of alcohol weakens self-control, paralyses the organs, blurs the vision, and dulls the conscience. Wherever prohibition has been adopted, crime has been greatly reduced. War conditions and the high price of drink may have accounted in some measure for the reduction of crime. But in two towns near Glasgow where "No licence" was adopted by the people in 1920 the number of police cases has been wonderfully reduced (Kilsyth and Kirkintilloch). The usual police courts did not require to meet, and the police force lessened in number. But social conditions conduce to resort to public-houses, and such excessive drinking, with its wasteful expenditure, tends in turn to increase the badness of the conditions. The unsatisfactory housing conditions in which so many live drive men out of such houses and clearly prove the need in most districts of workmen's clubs where they could have free social intercourse, without the drinking bar. Man is a social being, and more should be done in all our districts to provide suitable social centres, bright and cheerful places where men and their wives might spend a restful

and pleasant time. It is not enough simply to close public-houses; something more worthy of the name must take their place. A public-house, however, cannot be reformed so long as drink is sold in it for private gain. To improve social conditions is the subject of the Commission on Housing. Here it is sufficient to press the point that if the many contributory causes of crime are to be removed, attention must be given to housing, and the provision of social centres and places of recreation. And this is especially the case in connection with the young and rising generation. If not wisely helped by clubs their future is endangered.

"A Government deeply concerned in social conditions on which so much depends should charge itself with the elimination of public-houses badly conducted, betting and gambling dens, and such places of amusement (certain cinema or picture houses, and low theatres) as refuse wise control and pander to a depraved taste. The case of habitual drunkards requires serious attention. A large number of murders are simply the last of a series of assaults that have taken place when the murderer was drunk. Such a result was almost bound to happen sooner or later, and steps should have been taken to prevent it. Might it not be made illegal to sell or supply alcoholic liquors in such cases to known persons who have been before the Courts for assaults?"

(5) *Betting and gambling.*—The Commission notes

with regret the great increase of betting and gambling among all classes, and the consequent lowering of the moral standard, which so frequently results in embezzlement and other crimes. It appeals for a strong lead in this matter, such as the formation of a League, the members of which should undertake to combat this growing evil.

(6) *Lack of education.*—That education diminishes criminality, statistics clearly show. The proportion of illiterates amongst the criminal classes is much higher than amongst the law-abiding. A true and worthy system of education tends greatly to reduce crime, as it would teach the common duties of life and citizenship, and give to the young a saner view of those relations which bind society into one. The essence of a true education is social, and therefore moral and religious, emphasising the responsibility of all and each for the highest well-being in this life, as the only basis and hope of well-being in the life to come. Without this essential element the advantages of knowledge may be wrongly employed. Some of the greatest criminals, such as those guilty of forgery, embezzlement, and kindred offences, have had high intellectual qualifications and no development of the social or religious conscience.

(7) *False standard of life.*—This is closely related to the lack of true education. The responsibility of certain sections of the Press which debauch the morals of the community is now being recognised and we are glad to note the prospects of wise legislation to control this evil. Indecent publications are on sale to adolescents in shops of a certain character in our great cities and the nuisance should

be stopped. The cause of a certain amount can be traced to the misuse of the cinema in which vice is sometimes portrayed as romantic and interesting.

Besides these common causes, we desire briefly to draw attention to what might be called "unconscious" causes for which the ordinary non-criminal citizen cannot divest himself of responsibility. The 14th chapter of Romans seems to give us what should be the keynote to the Christian citizen's attitude towards the weaker or tempted brother. "That no man put a stumbling-block or an occasion to fall in his brother's way," says the 13th verse; or again in 1 Cor. viii. 9, we read, "Take heed lest by any means this liberty of yours becomes a stumbling-block to them that are weak." We are our brother's keeper to a far greater degree than many of us realise. How many people have first given way to temptation by finding money lying about, the owner apparently having no knowledge of how much he should have. Jewellery left about in rooms of private houses, hotels or restaurants has caused the downfall of many, as has the flaunting of jewellery and wealth among a crowd of poor people. We know that the habit in shops of having quantities of goods displayed on counters or outside leads to great dishonesty; the temptation is too strong to be resisted. We also feel that brewers, distillers and owners of shares in public-houses cannot divest themselves of all responsibility for the evils that so often come from drunkenness. Many persons who make but little profession of religion refuse to invest in such shares, and yet some religious leaders derive wealth from these sources.

Again, employers and their wives have a direct responsibility in this matter, as also have owners of working-class houses. We are well aware that slums are more often created by the tenants, but it is not always so, and some owners in smug, pious prosperity are the real criminals who create lesser ones. Perhaps the greatest unconscious cause of incipient crime is *want of discipline in child training*, whether at home or at school. The very poor and the very rich are often the chief delinquents. Among the rich, self-indulgence is often a matter of course; at the other extreme, want of space and want of time render satisfactory home-life almost impossible, regular hours and habits are non-existent and a strangely easy-going life seems to be the rule. Unless self-control is taught when young, it cannot be practised in later life. Temptations come to all, and he who has no sense of his responsibility to his God or his neighbour for his actions will sooner or later end in disaster.

In closing we must speak of the old-fashioned power of example. What may be safe for us may by example cause others to offend. What to us seems to be harmless may be to others the first step on the path to dishonour and degradation. So let us remember that "We that are strong ought to bear the infirmities of the weak and not to please ourselves," for our great Example, "even Christ, pleased not Himself."

CHAPTER V

THE TREATMENT OF CRIME

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THE TREATMENT OF CRIME

(A) Principles and Psychology

There are five different ways in which offenders have been treated, and which have been adopted in varying degrees with more or less persistency. The system of treatment, however, has grown up almost casually, and no logical attempt has been made to link up the various ways in one adequate and perfect co-ordinated code of legislation. The present stage is still largely one of experiment. Hence results are not definite, and discussion ranges over a wide field. It is obvious that the practice that prevails in different parts of the country and in different kinds of Courts varies to an extraordinary extent. A supreme effort at co-ordination is the need of our time.

The ways of treatment may be arranged as follows :

(1) *The Retributive*, or that which aims at expressing by means of punishment inflicted by the State the sense of moral indignation on the part of the community at the wrong done. It is something that disturbs the balance of justice and requires immediate attention. The wrong-doer must therefore suffer. The right must be vindicated, for this

function has been handed over by the injured to the State.

(2) *The Deterrent* method. Here the principle is to warn others of the danger of similar wrongdoing, and by showing that punishment follows all wrongdoing to restrain others from committing any offence against the law.

(3) The *Preventive* method seeks to prevent the repetition of the offence by those who have done it already. Here the emphasis is laid upon the effect punishment has upon the wrong-doer.

(4) The *Reformative* method would dispense with punishment, and use such a method as would eradicate the criminal tendency, and secure that the wrong-doer should not only cease to do wrong, but learn to do well; in other words, become a good man and a worthy citizen.

(5) The *Causative or Radical* method would deal not alone with the particular person accused but would search for and discover the causes of crime in the community, and then take adequate and complete steps by means of legislation to bring about a condition of things in which these bad causes shall be removed, and everything that "hurts or destroys" be taken away from the body politic.

Upon these five principles one of our contributors, a well-known London magistrate, comments:

> "The first, viz. the retributive, has occupied far too large a part in the administration of justice in the past and constituted at one time the great object of punishment, as shown in the doctrine of 'an eye for an eye and a tooth for a

tooth'; the Hebrew restriction on even more savage methods of revenge. In the light of the teaching of the Gospels it is submitted that retribution should no longer play any part whatever in the administration of criminal justice. The main object of punishment should be reformative, and this not merely on moral or sentimental grounds, but in the best interests of the State itself. Prison statistics show that no less than 66 per cent. of all serious crimes are committed by persons who have been previously convicted. If, therefore, the State desires to diminish criminality, it can best do so by reforming those who have fallen into crime. The deterrent element in punishment must always, of course, remain a necessary, but not the chief element. The exaction of 'damages' played a large part in Anglo-Saxon law, but was practically abandoned under the Normans, and since that date has been far too little employed. The Criminal Justice Administration Act of 1914 has re-introduced this valuable principle and has empowered the courts to order compensation by the offender to the person whom he has wronged. The law, it is submitted, has no right to impose suffering on anyone merely because it is suffering and because the sufferer has done a wrong. Unless such suffering is reformative in its effect it has no justification.

"It is only in very recent years that the treatment of the criminal by reformative methods has seriously entered into the policy

of the State. The idea is, however, gaining ground rapidly and is clearly in conformity with the Christian ideal. Solitary confinement of a man whose whole trend of thought is almost necessarily evil can only have upon him disastrous results. This principle of solitary confinement is gradually playing a smaller part in modern prison treatment, and within the last few years the attempts of the Prison Commissioners to introduce education and a higher standard by means of lectures, music, and above all the admission of visitors from outside, is a very great step in the right direction. All prisoners should receive visits from those whose conversation, sympathy and interest would develop what is best in the criminal instead of leaving him, as under the old system, to batten upon the evil of his own heart."

We have suggested that some adequate means should be taken to prevent the repetition of a wrong action, and to deter others. Imprisonment by itself is not enough, as witness the frequent return of discharged prisoners, and the annual addition of prisoners for the first time. Has the State the right to deal with an accused person with a view to deter others, and so make one person " the whipping-boy for another " ? The appeal to fear as a deterrent is not the highest motive. What is wanted is better and fuller instruction, so that the right may be loved and the wrong detested. Certainly far more consideration should be given to the reformation of the wrong-doer, and to the removal of the causes

of wrongdoing, than has ever yet been given. This should be a first charge on the State and all its Courts of justice.

In our criminal courts it is hardly too much to say that the prevailing practice has been to deal with facts and the law applicable to them rather than with the causes of the wrong and the circumstances of the accused. There is a tendency to increasing agreement among alienists and modern students of psychology that crime is more generally the result of a disease or defect than something to be punished. If that is the case, it is obligatory on the State to see that suitable treatment be meted out. "Investigation has shown that the criminal is to a large extent defective mentally and physically, and proper medical advice may remedy and make him a decent member of society. In practically every case some mental defect is found" (Dr. Hamblin Smith). "Uninvestigated criminals are an expensive luxury."

Sir George Newman has been pressing the importance of regular medical examination for all children, and if this were done, and medical treatment given, the general moral as well as physical health of the community would be much improved. Statistics which would be carefully preserved might then be available for all local authorities in dealing with cases. Right of liberty only appertains to those persons who are capable of contributing to the well-being of society and of discharging their social duties. Wise restraint and observation are required wherever this is not done. The bogey of personal right and liberty requires to be very carefully examined in the light of social well-being.

CHAPTER VI

THE TREATMENT OF CRIME

(continued)

CHAPTER VI

THE TREATMENT OF CRIME (*continued*)

(B) PRACTICAL TREATMENT

THE methods required to carry out the above principles have now to be considered in some detail. The best and most helpful method of dealing with delinquency that has probably ever been introduced to the criminal administration of this country is the Probation Act. It is not only scientifically sound in principle but is in entire accord with the Gospel teaching. Sir Robert Wallace, Chairman of the London Sessions, recently claimed that 95 per cent. of the cases placed by him upon probation were successful. Judge Atherley-Jones, K.C., states that 75 per cent. are successful. If the actual percentage were only 60 or 70, this method of treatment would more than have justified itself. To put the matter on its lowest ground of economy, the cost of looking after one man on probation for an entire year is no more than the keeping of him in prison for one week. Prison is rarely, if ever, reformative in its effects, a view in which the Lord Chief Justice of England recently concurred in a public speech. Probation is reformative, as has been seen in a vast number of cases.

Imprisonment, again, is often as severe a punishment upon the wife and children of the criminal whose home is broken up, and who are frequently driven into the streets, as it is upon the offender himself. Probation, on the other hand, not only tends to reform the criminal but also to improve the whole conditions of his family life. It is submitted that there is no way at the present time in which the Gospel principles can more effectively be made dominant in criminal administration than by the use in all possible cases of the Probation Act. The recent appointment by the Home Secretary of an Advisory Committee to make better provision for the carrying out of the Act is a step in the right direction.

Next the extension of the exaction of damages to make good the loss or repair the harm done. It is not merely to satisfy the injured person, for some persons may not press the point of their own personal loss. This may also be covered by insurance against burglary and the loss would fall on the Insurance Company. It is important that the principle of reparation be laid down as one of a binding obligation. If by wrong done the balance of justice has been disturbed, and someone suffers, that suffering must be met. This principle has been expressed in the Criminal Justice Administration Act, 1914. Definite parliamentary approval has thus been given to this important principle, and it should be strictly carried out. It is believed that one of the strongest deterrents against committing wrong would be the definite knowledge that all goods stolen would require to have their value replaced, and all damage

done to property have to be repaired. The instalment principle of payment would be adopted, and during the period of repayment the consciousness that the amount deducted from wages to meet this charge was the result of wrongdoing would work effectively to the giving up of wrongdoing. It is also to be noted as of value that if only parents had the knowledge that their boys or girls, on whose earnings they may to some extent have to depend, will have to make good, they will of necessity be more alive to their parental responsibilities in watching and instructing their families.

Does it not seem strange that the State, to which the individual citizen has handed over his right to vindication, should be so negligent in seeing justice done to the wronged? In most cases they are allowed to suffer. Suffering supposed to be measured by the gravity of the offence has been inflicted by the courts. In other words, an attempt has been made to "fit the punishment to the crime," a very difficult and almost impossible task. Now the suffering should bear some definite relation to the wrong done. Imprisonment for a longer or shorter period, which implies the loss of liberty, but offers advantages to some prisoners in regular meals, a clean bed and good air, may not mean any suffering at all. Any such short sentences, followed by other similar ones, only bring the law into contempt. The record of short sentences pronounced upon certain prisoners, and the return of such persons on the lapse of a period longer or shorter after their discharge, is painful in the extreme. Hence it has been urged by many Judges that there should be

some form of severe punishment which could be felt and remembered, such as birching without imprisonment. On the other hand, it is maintained that birching is neither reformative nor deterrent. Force is no remedy of a permanent or abiding kind. It is known that those who have been birched have in many cases again appeared at the bar. Thus opinions differ, and complete statistics are desired.

(1) *Juveniles* (*under* 16). Juvenile delinquents comprise "children" from 7 to 14, and "young persons" from 14 to 16; and in London are brought before a Children's Court. This is held, with one or two exceptions, in a room of a separate building from the police court, and the constables do not wear uniform. Many of these children, boys especially, have been taken by their parents on previous occasions to the police station "to get a warning" from the police; and in some cases this has perhaps been a useful thing. But kind and friendly as most constables are to the children, in no way should Probation work be connected with the police, nor, under the circumstances, should a constable be made a Probation officer, for his former work would militate against his success in the latter. The great function of the Probation officer is to be a friend of the child and his parents.

All constructive work must face criticism, and it is especially easy to criticise Probation work among children. It has only been tried in this country for about fifteen years, and on a limited scale. But there is a growing feeling that it is the best method of dealing, not only with juvenile delinquency, but with delinquency as a whole; for surely there

is more chance of preventing crime by getting at a child than of curing it when he is older. No one has a better opportunity of getting at the child than the Probation officer, who is looked on as the friend of the family, because the parents realise that he is working with them to keep the child *in his own home* and to try and reform him there. At the same time we must not forget that there are many sad and terrible cases, where the home surroundings are such that the child ought to be removed from them, and from parents who do not deserve the name. In such homes the children may be the victims of unnatural crimes, and bear the burden of knowledge and sadness far too heavy for their years. Here the School of the Guardians and the Industrial and Reformatory Schools are a refuge in which hundreds have been helped and saved; and many of these schools are worked with good results, by up-to-date methods. Yet even in these sad cases it would be preferable to get some "fit person," a relative if possible, to take the child and preserve his home-life—in a better home than his own.

There should be co-operation between the Probation officers and the District Organisers of After-care Work, and in this way the voluntary work, so useful in probation, can best be supplied. The Probation system at present varies in detail a good deal in the different Children's Courts in London, but in main outline it is much the same. With regard to the number on probation, most Probation officers consider that Sir John Dickinson's suggestion of a *maximum* of sixty cases

for each officer should not be exceeded if good individual work is to be done, and it must be remembered that the mere number does not give any idea of the work required.

A Note on Child Assault.—One of the most unpleasant portions of our criminal system relates to the handling of cases of indecency involving the detailed evidence of young girls. Very few people realise the horror of a cross-examination upon points normally considered to be unmentionable between men and women, but which in such cases have to be put with brutal frankness by a man to a young girl in the presence of other men. We appreciate the difficulties of counsel faced with this hateful task in the performance of his duty to the prisoner. But we are strongly of the opinion that the time has come for an inquiry into this matter, and the opinion of Judges and eminent practitioners at the Criminal Bar should be taken as to the practicability of amending the procedure so far as this can be done without injustice to the accused. Very drastic recommendations as to the substitution of women for men have been suggested to us, but these are, we fear, utterly impracticable at present. The necessity for women's assistance in such cases we fully recognise and desire to lay stress upon. (Attention is drawn to an article upon this subject written by Mr. G. B. Shaw for the Six-Point Group in *Time and Tide*, Feb. 23, 1923, p. 210.)

(2) *Adolescents and young offenders* (16–21). The Prison Commissioners urge that a greater use be made of the Probation Act for these cases. Industrial Schools and the modified Borstal system are

provided for cases where institutional treatment is deemed necessary, but it is recognised that it is always a pity to remove first offenders from normal life. It is for this reason that probation is so valuable. The Borstal system is so famous that we do not think it necessary to enlarge upon its methods or its valuable and wonderfully successful reformative influence in this Report. But we think it desirable to urge the special need of sympathetic understanding and treatment by the courts of crimes due to the ferment of adolescence.

(3) *Adults.*—Some special classes are dealt with below :

(*a*) *First offenders.*—We reiterate the need for probation and the application of the Act which applies to first offenders.

(*b*) *Mentally defective persons.*—The Prison Commissioners speak of prison as " a place intended for fully responsible persons, sane in body and mind." Writing in 1922, Hobhouse and Brockway gave it as their opinion that, owing to the limited scope of the Mental Deficiency Act and administrative difficulties, " approximately two-thirds of the mental defectives who are sent to prison are still legally condemned to remain there." The Prison Commissioners, in their Report for the year ended 31st March, 1923, draw special attention to this matter, and urge the direct committal by the courts of such persons to an institution for defectives. The confinement of lunatic or semi-lunatic persons in prison is at once cruel and foolish. The prison régime is not suited to such persons, and is indeed likely to injure them. They are a serious handicap

to the improvement of prison conditions, and their release on the conclusion of their sentences leaves them a danger to themselves and the community. We commend the mental examination of persons, which is at present carried on under special conditions at Birmingham prison, and we advocate the extension of such methods.

(*c*) *Debtors.*—The Prison Commissioners in their latest Report deplore the large increase in the number of persons in prison as debtors, or on civil process. (The number of such persons in 1922–23 was 12,995). We approve their recommendations, viz. that every opportunity be given for payment by instalment, or even by attachment of wages, and that full information about the debtor's circumstances should be obtained in every case before the order of commitment is issued.

(*d*) *Unconvicted prisoners.*—Unconvicted prisoners are "in law presumably innocent" and detained for "safe custody only." Their confinement in prison, as at present, either awaiting trial or pending examination and inquiry, or even simply to have their finger-prints taken, inflicts a social stigma and even leads to serious contamination from intercourse with depraved types. We are of opinion that bail might more freely be granted than is the case in some Courts. The wish of the police is too often the only matter taken into account. Reformers have long urged the establishment of remand homes, and we are glad that the Prison Commissioners in their recent Report say: "We should like to see remand homes provided which would have no connection with the prisons."

The Probation System.—A great deal of matter has been sent to us dealing with Probation, and we have already indicated our whole-hearted approval of this Christian system, and our recognition of its past success as indicating the most hopeful line of advance for the future. Considerations of space prevent us from incorporating in this Report a full description of this system and we can only give a few recommendations for its development.

(1) Many country magistrates and others do not realise the value of this system. It is not "grandmotherly legislation," but a system whose success is vouched for by many professional judges of eminence and Metropolitan magistrates who are by no means "sentimentalists."

(2) Wherever possible, both a man and woman Probation officer, for obvious reasons, should be appointed to a court to "advise, assist and befriend."

(3) Courts in county areas in poor neighbourhoods need them as much as Police Courts. Some have obtained voluntary officers, and this course might be more generally followed.

(4) The expense of the system is borne by the Local Authorities, but it is submitted that the State should pay half at least, as (on the lowest grounds) the system effects an enormous saving to the State. The Magistrates' Association has reached a similar conclusion.

(5) Great care is necessary in making appointments. The work is arduous, calling for rare qualities of mind and heart, as well as first-hand knowledge of and sympathy with the lives of the poor. The work is truly a vocation.

(6) Probation officers should attend all sittings of the Court and should be in touch with the District Organiser of After-care Work, the local Education Authority and such voluntary charitable organisations as he may find useful as co-operative agencies in his work.

(7) The officers should have a recognised status and be adequately paid. Magistrates ought to take a strong personal interest in their efforts and give every help and encouragement. The formation of a Probation Committee, which without interference would assist the officers, is suggested.

We desire to urge magistrates to study the system and to visit prisons, remand homes, mental deficiency, industrial and reformatory schools, etc., so that they may have a first-hand knowledge of the places to which they commit offenders.

The Probation system as at present in force is imperfect. We desire to see it perfected and applied in every criminal court in the land, but we record our satisfaction that the principle should have been adopted as a great step in the direction of the Christian ideal. As one of our contributors well says on this subject, " If the laws made by man are to work for the ultimate good of mankind, they must be founded and built on the Law of God."

CHAPTER VII

THE TREATMENT OF CRIME

(*continued*)

CHAPTER VII

THE TREATMENT OF CRIME (*continued*)

(C) Sentences

It is a commonplace that the effect of prison life is in most cases, and indeed almost invariably, detrimental. Imprisonment does not act as a deterrent for two-thirds of those who have been previously imprisoned (see *Hibbert Journal* for April 1910). The system, not the officials, is responsible for this. We regard it as unfortunate that those sentenced for the first time may be thrust into the company of old offenders. Lord Kimberley's Committee recommended in 1879 that first offenders should not be sent to prison with habituals. We recommend a classification of prisons and prisoners (instead of district prisons), including a separate prison for first offenders.

The short sentence.—No training is possible under a short sentence, for time is required to teach the benefit of continuous work. Formerly considered merciful, the short sentence is increasingly seen to be, in many cases, opposed to the interests of the prisoner. The fear of prison goes, and that is all that a short sentence frequently accomplishes. It has increased recidivism.

The long sentence.—There is reason to hope that, if the inmates of prisons are being trained instead of being merely confined, long sentences may become valuable. The length of sentence should be determined by the consideration of the time and training necessary to reform the individual under sentence. Too long sentences unfit men for outside life.

The indeterminate sentence.—Under a system of indeterminate sentences much good might result. The prisoner would realise the importance of his own efforts in fitting himself for freedom. It is not open to either of the objections of the other two and would not sap the will to work. We recommend experiments upon this type of sentence.

A Note on Capital Punishment

"Capital Punishment," as the death-penalty is euphemistically called, is usually argued with reference to the crime of murder. But the widespread belief that only the crime of murder is so punishable by the laws of England is incorrect. In addition to murder, the setting-fire to a king's ship or dockyard or any ship in the port of London is, by the Dockyards Protection Act of George III, still punishable by death. So also is piracy if accompanied by an act endangering life, by an Act of Victoria. Treason also is punishable by death, and Roger Casement was executed for this offence in 1916. Nor are all killings punishable by death. Murderers under the age of sixteen are not liable to the death-penalty; and the killing must be of a "reasonable being" (*e. g.* not an unborn child), "with malice afore-

thought," the " death following within a year and a day." Various other forms of slaughter are ranked by the law as (1) manslaughter, (2) justifiable homicide, (3) excusable homicide, and are not liable to the death-penalty.

The case for and against the death-penalty has been exhaustively set out in a recent book on Capital Punishment by Bowen Rowlands, in which the author takes neither side. Some of the chief arguments " for " are :

(1) *Deterrence.*—It is argued that nothing less than the fear of his own death will deter the prospective murderer. In some countries murder is said to have increased as the result of abolition, leading to a restoration of the penalty.

(2) *Cost.*—To inflict the cost of maintaining a murderer throughout the remainder of his life is suggested to be unjust to the community.

(3) *Anti-sentimentalism.*—Advocates of the death-penalty suggest that opponents are actuated by " weak sentimentality." The State's right to require the life of its citizens as in war is upheld.

Some of the chief arguments " against " are :

(1) *Non-deterrence.*—That executions do not deter is proved by the fact that murders continue. Fear of death does not deter from war or suicide. The " deterrent " argument of the other side is challenged.

(2) *Historical analogies.*—Death was formerly

inflicted (in comparatively recent times) for the theft of a post-office letter or a sheep. Its abolition for petty crime led to decrease, not increase, in spite of prophecies of many eminent judges and bishops.

(3) *Encouragement.*—It is argued that a cheap sensational Press with its "lionising" of murderers on trial does actually encourage others to seek notoriety. Also many murderers actually escape *all* punishment owing to the reluctance of juries to send to death where there is the slightest doubt.

(4) *Possibility of mistake.*—A mistake in condemnation cannot be rectified.

(5) *Human life sacred.*—Life ought to be sacred and the State should set its members an example by holding it so.

Two phases of the subject call for special notice: (1) the proposed exemption of women and (2) the question whether Christians can lawfully place the duty of shedding blood upon the shoulders of fellow-men (executioners) and make them professional blood-shedders. The suggested exemption seems not justifiable: if capital punishment is wrong, it is wrong for both sexes. As to (2), this must gravely exercise the conscience of all Christians.

The Committee of the Howard League is of opinion that capital punishment should be limited to murders of a deliberate and premeditated nature. A number of the Committee are strongly in favour of abolition. A Bill has recently been introduced into Parliament (March 1924) with this object.

We find a difference of opinion upon the subject amongst our contributors with a leaning upon the whole towards abolition. We point out first the differences between legal " murder " and the offence of the sixth commandment, widened by Christian interpretation according to the words of Christ as recorded by St. Matthew. We also point out that Our Lord prayed for His murderers and that His mission was redemptive, and that as Christians, our first aim should be the prevention of murders, which would render discussions of the penalty needless. We plead for further study of this question by individuals and recommend a Government inquiry. This question, like all others, must be regarded in the light of fundamental Christian principles, and we are deeply impressed by the words of a group of our contributors :

> " We feel that to cut short a life under these circumstances (*i. e.* where there is no opportunity of remedying mistake or reforming the criminal) is indefensible from the Christian position. . . . The Christian will preach unceasingly that redemption is the method of Christ, and that punishment is only permissible when it serves the interests of love."

(D) The Prison System

The history of recent prison administration in England consists of the shifting of emphasis from retribution to reformation, and the present system is an amalgam combining these two aims. Mr. Mott Osborne has summed the matter up thus :

> "The prison system endeavours to make men industrious by driving them to work; to make them virtuous by removing temptation; to make them respect the law by forcing them to obey the edicts of the autocrat; to make them far-sighted by allowing them no chance to exercise foresight; to give them individual initiative by treating them in large groups; in short, to prepare them again for society by placing them in conditions as unlike real society as they could well be made."

It has been truly said, "Prison makes the good prisoner rather than the good citizen." In our view, the application of Christian principles demands that the reformation of the criminal be regarded as the true object to be sought, and by "reformation" we mean helping a man to help or develop himself. We recognise the importance of deterrence, but we believe that to reform the criminal is the best means of deterrence.

We now consider some of the main aspects of prison régime.

(1) *Prison labour.*—The difficulties of organising work in prison are obvious; *e. g.* it is seldom that a man can be employed at his own trade; the capacity of prisoners is below the average; and many are not skilled at any work; the varying lengths of sentence make it difficult to classify the prisoners; competent trade instructors are expensive; prison workshops are as a rule ill equipped; there is difficulty in obtaining regular contracts, and in marketing prison products.

We approve the statement that "there is no reason why, because a man or woman is put under control, he or she should not continue to earn an honest living," and the further principle that, "in all prison industries, the first consideration must be training for future honest livelihood." It follows that every effort must be made to teach a trade to young offenders, and that the standard and conditions of work must, as nearly as possible, approximate to industrial conditions outside. We recommend for consideration the arrangements for work in the Maison Centrale, a women's convict prison in France, where the women work in a large factory, managed by a manufacturer who teaches them and pays them wages. In America, excellent work has been done by convicts on the land and in lumber camps, with, in some cases, almost as good results as in free labour. We recommend that, where possible, rewards and privileges be granted for good work, rather than punishments inflicted for bad work. We recommend the introduction of hobby work in the evenings, the proceeds of the sale of such work to be credited to the prisoner, after deducting cost of materials.

(2) *Education.*—Many of the same difficulties obtain as we have enumerated in the case of prison labour. We may specially mention the lack of trained teachers and the objection to large classes for fear of contamination. The Prison Commissioners, in their recent Report, state with regret that in elementary education no advance has been made since last year, simply because "money cannot be found to pay as many teachers as are required."

We are glad to welcome the greater use that is being made of voluntary workers from outside. We emphasise the need for more voluntary help in this direction.

In passing, we urge that proper writing materials to good-conduct prisoners, and larger use of educational books, be granted. The Prison Commissioners pay a high tribute to the value of the lectures which are now regularly given in prisons, and also the concerts.

(3) *Religion and Church services.*—We believe that the acceptance of reformation as the aim of the prison system would make the religious services and the work of the chaplains of much greater value. The chaplain is officially regarded as caring for the reformative side of prison work, but the religious value of his ministrations is damaged in the eyes of many of the prisoners because he is regarded as an official of a penal system. The time of a prison chaplain is so much occupied by routine work that he has far too little time and opportunity for visiting and talking to the prisoners. The Prison Commissioners report that, at chapel service, the warders have been removed to the back and sides of the chapels, and no longer sit on raised seats facing the prisoners. They report, "The change is successful." We recommend that more help be given to the chaplain by outside clergy.

(4) *Letters and visits.*—We recommend that more frequent letters be allowed, both because lack of news is, in some cases, a needless hardship to the prisoner, and even more important because it inflicts suffering on his innocent relatives. We are glad to

see that the Prison Commissioners now state that "local prisoners, so soon as they are received on conviction, are now allowed to write one letter to their relatives or respectable friends, and to receive a reply." We are further pleased to note that the Commissioners are improving the conditions under which prisoners are visited by their family and friends. But the number of friendly visitors at some prisons is inadequate, and we urge those willing to help to write to the Discharged Prisoners' Aid Society.

(5) *Food, dress, etc.*—Until recently the principle that "diet may be made a just and useful element of penal discipline" held the field. As a guiding rule, we recommend the opposing principle, viz. that "diet ought, on no account, to be made an instrument of punishment." The Prison Commissioners report experiments in collective dining, and they add, "The public opinion of the common table promotes a certain amount of decency in eating and talking, and tends to raise the tone of the party." We hope that further experiments may be made in this direction.

We note that the broad arrow is to be abolished, and also that shaving with safety razors is now being allowed. Further, Bedford Prison has already been equipped with new clothing and cell furniture, including looking-glasses. These changes indicate a changing point of view.

(6) *The silence rule.*—While this has been abolished in its absolute form, silence is still characteristic of prison régime. We recognise the difficulty of allowing free conversation between prisoners, but the

present position is unsatisfactory, as it makes deceit a practical necessity—for a man must talk. Also it renders the prisoner ever liable to be reported, and puts him at the mercy of a disagreeable officer. We recommend further experiments in allowing conversation among prisoners. There is some evidence that the experiment of permitting talking at exercise has not been a great success, as it was found that the conversation was of a low type, and quarrels sometimes resulted. We incline to think that conversation should be about some definite subject, and it is in this connection that debates are so valuable.

(7) *The prison staff.*—No detailed reforms of the prison system can be effective unless the prison staff is imbued with a new spirit. For the penal character of discipline, with its military form and mechanical rigidity, there must be substituted a supervisory and instructional system where the warder is a supervisor and instructor. Warders must be such men as can safely be encouraged to speak to prisoners, and to take an interest in their welfare.

(8) *Preventive detention.*—We have already referred to the excellent results obtained among the prisoners at Camp Hill. Under the provision of the Prevention of Crime Act, 1908, a special régime was set up at that prison, which was reserved for old and hardened criminals. There is solid ground for hoping that the same methods of greater freedom and encouragement of personal initiative would produce results as good, or better, if applied to younger prisoners. We recognise that sickness and

mortality rates in English prisons are highly creditable, and we have no fear of further reforms making prison attractive, for the loss of personal liberty and personal disgrace never can be so.

In conclusion, we may mention the results achieved by Mr. Mott Osborne in America by means of self-government by prisoners. We can freely commend the spirit of such methods, while admitting that risks are involved, and that their application to English prisons would be difficult. None the less, a beginning has been made, and the Prison Commissioners report that there can be no doubt about the value of such experiments.

(E) The Discharged Prisoner

A most urgent question for all Christian workers is the after-care of the prisoner upon his release. With this is also bound up the care of his wife and children during his incarceration. As things are, the position of the discharged prisoner is one of the greatest difficulty, though much has been done by organised Christian bodies and the Discharged Prisoners' Aid Society. So also is the position of dependents left to fend for themselves with the bread-winner gone. Generally the guardians will not give outdoor relief, but will take the mother and children into the workhouse—thus depriving the prisoner of a home to go to on release and making an ill situation worse.

At present, ordinary employers fight shy of the ex-prisoner. Philanthropic employers also are discouraged by failures and loss. If our recommenda-

tion that prisons should become reformative agencies and prisoners should be under indeterminate sentence until fit for release were accepted, and were carried out, the position would improve.

The system of ticket-of-leave and police visitation tends to hinder the re-establishment in honest employment. We should prefer to see supervision in the hands of Parole officers unless and until police supervision of any particular individual should prove necessary owing to a return to crime. We urge that Churches and Brotherhoods and unattached social workers might form a representative Committee to deal with cases under the guidance of a Parole officer, to obtain employment, give advice, and afford sympathy and friendship to discharged prisoners.

(F) Administration

(1) *Police.*—The general reports on the fairness of the police are fully borne out by our inquiries upon the whole. But we strongly urge the employment of women as well as men in every police force. Women and children should as far as possible be dealt with solely by women, and the selection of women for this work should be carefully made after full training.

(2) *The courts.*—That the administration of justice in this country is pure and free from bribery is generally acknowledged and we gladly recognise this. But drastic suggestions for the alteration of legal procedure which would involve the admission of "evidence" at present considered "irrelevant"

by lawyers have been put before us, *e. g.* considering a neutral medical report before beginning a trial. Some of these suggestions, *e. g.* that a legal judgment should not be based on precedent, involve revolutionary changes that need skilled and very careful consideration indeed. We feel that such matters need further and much more detailed inquiry before pronouncing upon them, while we sympathise with the spirit that prompts the raising of them.

But we agree that wealth and social standing still give an accused an unfair advantage over his poorer brother, though the advantage is less to-day than ever before, and the excellent modern tradition of British judges in acting as " Counsel for the undefended prisoner " is a great help. We think this tradition might be more inculcated amongst the unpaid magistracy. The Bar and the Law Society might be asked to provide voluntary defences, but this needs further exploration. We are of opinion that promotion to high judicial office should not be determined by services to political parties, but by legal qualifications, high character, fitness for the office and general merit.

Conclusion

The Commission cannot conclude its Report without expressing its thanks to all who have co-operated in its work by sending in such a wealth of material. They feel they must emphasise the necessity for regarding this subject of Crime not as an isolated phenomenon, but as a matter intimately related to the home, to education, to the social and

industrial order, and to religion. In their view there is a supreme need not merely for the reform of the criminal for the sake of himself and the community, but for the realisation of a communal responsibility to create such social conditions—especially for the younger generation—as may assist our "criminal" brethren and be in harmony with the ideals of the Christian religion and the example of its Divine Founder.

Signed:

Francis Allen. (*Chairman*).
Buchanan Blake.
Nina M. T. Blyth.
W. Clarke Hall.
C. G. L. Du Cann.
Edith Ellis.
B. T. Harland.
D. Lleufer-Thomas.
Cecil Leeson.
Beatrix Hudson Lyall.
John McBain.
Polwarth.
F. Tillyard.

Note. Owing to their absence it was impossible to secure the signatures of Mrs. Sanderson Furniss and Mr. K. G. Robinson.

The members of the Commission who having co-operated in the preparation of this Report and attach their signatures do so as individuals and in no way commit the Churches or Societies of which they are members.

The acceptance of the Report by a signatory denotes agreement with the general substance of the Report, but not necessarily with every detail.

Recommendation

This Conference accepts the report of "The Treatment of Crime," and would urge upon all Christians, corporately and individually, the duty of :—

(1) Promoting a deeper and more thorough study of the causes of crime, and of the principles which should govern all treatment of offenders and criminals ;

(2) Working to remove the social evils which are direct incentives to crime ;

(3) Interesting themselves and others in the actual work and experiments being made by prison and other authorities, who are hindered and prevented, through lack of whole-hearted public opinion and support, from carrying into effect measures and reforms of real improvement and advance, and for which, in many cases, fresh legislation is unnecessary.

(4) Recognising their responsibility not only for the prevention and treatment of crime, but also for the restoration of offenders to their place in the Christian society.

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